

IN THE UNITED STATES DISTRICT COURT FOR
SOUTHERN DISTRICT OF WEST VIRGINIA
(CHARLESTON DIVISION)

FILED

JUN 17 2004

TERESA L. DEPPNER, CLERK
U.S. District & Bankruptcy Courts
Southern District of West Virginia

J. VICTORINO TELERON, JR., MD,

PLAINTIFF,

v.

Case No. 2:04-0609

NATIONWIDE INSURANCE,

DEFENDANT.

NOTICE OF REMOVAL

COMES NOW the Defendant, Nationwide Mutual Fire Insurance Company ("Nationwide"), misnamed by the Plaintiff as "Nationwide Insurance", by and through its counsel, Walter M. Jones, III, Heidi J. Silver-Myers and Martin & Seibert, L.C. and pursuant to 28 U.S.C. § 1332, hereby gives notice of the removal from the pending action from the Circuit Court of Kanawha County, West Virginia, bearing Civil Action No: 04-C-1263. In support of the removal of the underlying action, the Defendant states as follows:

6. This civil action was filed against Nationwide Mutual Fire Insurance Company on or about May 13, 2004. Service of process was accepted by the Secretary of State on behalf of Nationwide on or about May 20, 2004.

7. In the Complaint, the Plaintiff alleges that he is a citizen and resident of Kanawha County, West Virginia.

8. The Defendant Nationwide Mutual Fire Insurance Company is a foreign corporation authorized to do business in West Virginia with its principle place of business in Columbus, Ohio.

9. Insofar that the Plaintiff resides in West Virginia and the Defendants reside in Ohio, there is complete diversity of citizenship as required by 28 U.S.C. § 1332.

10. This Court has original jurisdiction pursuant to 28 U.S.C. §1332 as the matter in controversy exceeds the sum or value of seventy-five thousand dollars (\$75,000.00) exclusive of interest and costs, as Plaintiff's Complaint seeks damages for violation of West Virginia's Unfair Trade Practices Act and "bad faith", which includes punitive damages, without any binding waiver or enforceable order of a court limiting the potential recovery to seventy-five thousand dollars (\$75,000.00).

11. This Notice of Removal is filed within thirty (30) days after service of the initial pleading setting forth the claim of relief upon this proceeding is based.

7. A copy of all process pleadings are attached hereto as **Exhibit "A."**

8. A copy of a check made payable to the Clerk of the United States District Court for the Southern District of West Virginia (Charleston Division) in the amount of \$150.00 is attached hereto as **Exhibit "B."**

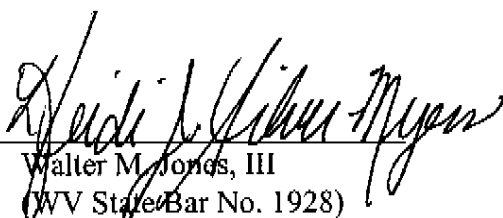
9. A Certificate of Filing is attached hereto as **Exhibit "C."**

WHEREFORE, the Defendant, Nationwide Mutual Fire Insurance Company removes this action from the Circuit Court of Kanawha County, West Virginia to the United States District Court for the Southern District of West Virginia (Charleston Division).

**NATIONWIDE MUTUAL
INSURANCE COMPANY**
By Counsel

MARTIN & SEIBERT, L.C.

BY:

A handwritten signature in black ink, appearing to read "Heidi J. Silver-Myers", is written over a horizontal line.

Walter M. Jones, III

(WV State Bar No. 1928)

Heidi J. Silver-Myers

(WV State Bar No. 9446)

1164 Winchester Avenue

P.O. Box 1286

Martinsburg, WV 25402-1286

(304) 262-3211



MAY 24 2004

BF Suit

Secretary of State's Office
Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

State of West Virginia
Joe Manchin, III
Secretary of State

Telephone: (304) 558-6000
Corporations: (304) 558-8000
FAX: (304) 558-0900
wvsos@secretary.state.wv.us
www.state.wv.us/sos/

Nationwide Insurance
One Nationwide Plaza
Columbus, OH 43215

LEGAL NOTICE

May 17, 2004

Civil Action: 04-C-1263

I am enclosing:

ATTN: Land
See CRM

PH: Garrison, Alicia K
J Vick P
92472
043248
05292001
41

- ___ summons
- ___ notice
- ___ order
- ___ petition
- ___ motion
- ___ interrogatories
- ___ suggestions
- ___ subpoena duces tecum
- 1 summons and complaint
- ___ 3rd party summons and complaint
- ___ summons returned from post office
- ___ certified return receipt

- ___ original
- ___ affidavit
- ___ answer
- ___ cross-claim
- ___ counterclaim
- ___ request
- ___ demand
- ___ default judgement
- ___ complaint
- ___ notice of mechanic's lien
- ___ suggested execution
- ___ summons and amended complaint

P007003

which was served on the Secretary at the State Capitol in his capacity as your statutory attorney-in-fact.
According to law, I have accepted service of process in the name and on behalf of your unauthorized foreign corporation.

Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in your name and on your behalf as your attorney-in-fact. Please address any questions about these documents directly to the court or to the plaintiff's attorney, shown in the enclosed paper. Please, do not call the Secretary of State's office.

Sincerely,



Vicki Haught

Vicki Haught
Supervisor

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

J. VICTORINO TELERON, JR. MD,

MAY 25 2004

Plaintiff,

v.

Civil Action No. 04-c-1269

NATIONWIDE INSURANCE,

Defendant.

SUMMONS

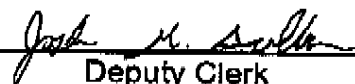
TO THE ABOVE NAMED DEFENDANT:

Nationwide Insurance
One Nationwide Plaza
Columbus, OH 43215

IN THE NAME OF THE STATE OF WEST VIRGINIA, you are hereby summoned and required to serve upon Jason Goad, Plaintiff's Attorney, whose address is Huntington Square, Suite 1000, 900 Lee Street, Charleston, West Virginia 25301, an answer including any related counterclaim you may have to the complaint filed against you in the above-styled civil action, a true copy of which is herewith delivered to you. You are required to serve your answer within twenty (20) days after service of this summons upon you, exclusive of the date of service. If you fail to do so, judgement by default will be taken against you for the relief demanded in the Complaint and you will thereafter be barred from asserting in another action any claim you may have which must be asserted in the above-styled action.

DATED: 5/13/04
Cathy D. Gorman
CLERK OF CIRCUIT COURT

By:


Deputy Clerk

FILED

2004 MAY 13 PM 4:33

IN THE CIRCUIT COURT OF KANAWHA COUNTY WEST VIRGINIA**J. VICTORINO TELERON, JR., MD,****Plaintiff,****v.****Civil Action No. 04-C-1263**J. S.
CATHY S. GATHORN CLERK
KANAWHA COUNTY COURT**NATIONWIDE INSURANCE,****Defendant.****COMPLAINT**

1. Plaintiff was at all times relevant hereto a resident of Kanawha County West Virginia.
2. Defendant is a foreign corporation doing business in Kanawha County West Virginia.
3. The events that gave rise to this action occurred in Kanawha County West Virginia.
4. This action is brought pursuant to the authority of West Virginia Code § 33-11-1 et sequitur.
5. The Defendant, insurer of the Plaintiff, violated the West Virginia Unfair Claims Settlement Practices Act, West Virginia Code § 33-11-4(a), and the Insurance Commissioners regulations related thereto, in the handling of Plaintiff's personal injury claim, including but not limited to:
 - a. Failing to adopt and implement reasonable standards for the prompt investigation of Plaintiff's claim by:
 - (i) Making a subrogation claim to Plaintiff's insurance carrier without reviewing a police report.
 - (ii) Failing to review a police report for approximately three months or more after the accident.
 - b. Failing to attempt in good faith to effectuate a prompt, fair and equitable settlement when liability became reasonably clear by:

(i) Extending a \$3,500 offer in October of 2001 when it was apparent that damages far exceeded this figure.

(ii) Waiting for approximately seventeen months before extending an offer of \$25,000, which was also unreasonable and unfair given the damages, and far past the prompt requirement set out by the Code.

6. The said violations were done willfully, wantonly, and with actual malice.

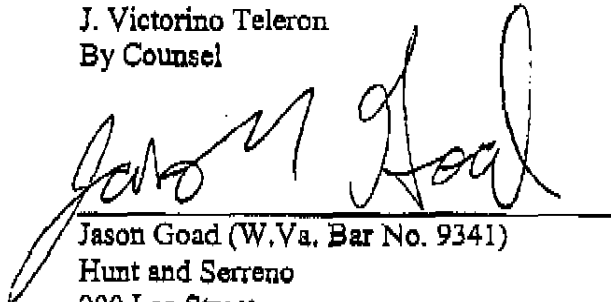
7. The said violations are a part of a course of conduct that constitutes a general business practice.

8. As a direct and proximate result of the said violations, the Plaintiff has suffered damages, annoyance, inconvenience, and has sustained attorney fees and costs of litigation.

WHEREFORE, the Plaintiff hereby demands judgment of and from the Defendant in such sums as will adequately compensate the Plaintiff for his injuries and claims, which said sums are far in excess of any sums necessary to conform jurisdiction upon this Court, together with prejudgment and postjudgment interest, his costs expended in the prosecution of this lawsuit, including reasonable attorney fees, and further pray for such other and further general relief as this Court may deem proper.

THE PLAINTIFF FURTHER DEMANDS A TRIAL BY JURY.

J. Victorino Teleron
By Counsel



Jason Goad (W.Va. Bar No. 9341)
Hunt and Serreno
900 Lee Street
Suite 1000
Charleston WV 25301
(304) 343-8001

IN THE UNITED STATES DISTRICT COURT FOR
SOUTHERN DISTRICT OF WEST VIRGINIA
(CHARLESTON DIVISION)

J. VICTORINO TELERON, JR., MD,

PLAINTIFF,

v.

Case No. _____

NATIONWIDE INSURANCE,

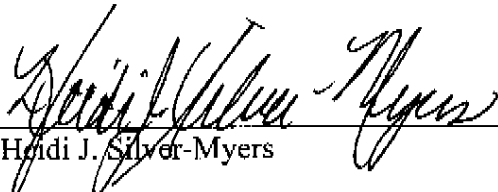
DEFENDANT.

CERTIFICATE OF FILING

I, Heidi J. Silver-Myers, Counsel for the Defendant, Nationwide Mutual Insurance Company, hereby certify that I served a true copy of the foregoing *Notice of Removal*, upon the following individuals, by placing the same in the U.S. Mail, First Class, postage prepaid, on this the 14th day of June, 2004:

Jason Goad
Huntington Square, Suite 1000
900 Lee Street
Charleston, WV 25301

Cathy Gatson, Clerk
Circuit Court of Kanawha County, West Virginia
111 Court Street
Charleston, West Virginia 25301


Heidi J. Silver-Myers

